

LABOUR DEPARTMENT

The 19th June, 1979

No. 12(206)-79-4Lab.--In exercise of the powers conferred by sub-section (3) of section 3 of the Workmen's Compensation Act, 1923 (Central Act 8 of 1923), the Governor of Haryana hereby intends to and the description of employments mentioned in column 2 of the table given below to the employments specified in parts A and Part B of Schedule III to the said Act and to specify in the case of employments to be so added the diseases mentioned against each in column 1 of the said table.

Notice is hereby given that the proposal will be taken into consideration by the State Government on or after the expiry of a period of three months from the date of publication of this notification in the Official Gazette together with objections and suggestions, if any, which may be received by the State Government from any person likely to be affected thereby, before the expiry of the period so specified.

TABLE

Occupational diseases

Employment

1

2

PART A

Poisoning by tricresyl phosphate

Any employment involving the use or handling of, or exposure to the fumes of, or vapour containing, tricresyl phosphate

Poisoning by diethylene dioxide (dioxan)

Any employment involving the use or handling of, or exposure to the fumes of, or vapours containing, diethylene dioxide (dioxan).

Poisoning by nickel carbonyl

Any employment involving the exposure to nickel carbonyl gas

PART B

Non-infective dermatitis of external origin (including chrome ulceration of the skin but excluding ionising particles of electromagnet radiation other than radiant heat).

Any employment involving exposure to dust liquid, or vapour or any other external agent capable of irritating the skin (including frictioner heat but excluding ionising particles or electro magnetic radiation other than radiant heat)

Noise induced hearing loss

Any employment involving exposure to high noise level over a prolonged period

Poisoning by Dinitrophenol or a homologue or by substituted dinitrophenol or by the salts of such substances

Any employment involving the use or handling of, or exposure to the fumes of, or vapour containing, dinitrophenol or a homologue or substitutes dinitrophenols or the salts of such

Poisoning by beryllium or a compound of beryllium

Any employment involving the use or handling of, or exposure to the fumes dust vapour of, beryllium or a compound of beryllium, or a substance containing beryllium

Poisoning by cadmium

Any employment involving exposure to cadmium fumes

Primary neoplasm of the epithelial lining of the urinary bladder (Papilloma of the bladder) or of the epithelial lining of the renal pelvis or of the epithelial lining of the ureter

(a) Any employment involving the use or handling of, or exposure to any of the following substances:-

(i) Beta-naphthylamine and its salts

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- (ii) Benzidine and its salts
- (iii) 4-amino diphenyl and its salts
- (iv) 4-nitro diphenyl and its salts
- (v) Alpha naphthylamine and its salts
- (vi) Ortho-tolidine and its salts
- (vii) Dianisidine and its salts
- (viii) Dichlorobenzidine and its salts
- (ix) Auramine
- (x) Magnet
- (b) Maintenance or cleaning or any part of machinery used for the production, handling or processing or any substance mentioned in (a) above
- (c) Cleaning of any clothing used by workers working with any substances mentioned in (a) above in a laundry which forms a part of the place of employment

The 31st July, 1979

No. 11(112)-3Lab-79/8194.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak, in respect of the dispute between the workman and the Management of M/s The Panipat Cooperative Distillery Ltd., Panipat.

BEFORE SHRI BABU RAM GOYAL, PRESIDING OFFICER, LABOUR COURT,
HARYANA, ROHTAK

Reference No. 91 of 1977

between

SHRI ISHWAR SINGH WORKMAN AND THE MANAGEMENT OF M/S. THE
PANIPAT CO-OPERATIVE DISTILLERY LIMITED, PANIPAT.

Present—

Shri Karan Singh, for the workman.

Shri R. S. Malik for the management.

at the time of arguments

AWARD

By order No. ID/KNL/270-77/26560, dated 18th July, 1977 the Governor of Haryana referred the following dispute between the management of M/s The Panipat Cooperative Distillery Limited, Panipat and its workman Shri Ishwar Singh to this Court for adjudication in exercise of the powers conferred by clause (e) of sub-section 10 of the Industrial Disputes Act, 1947.

Whether the termination of services of Shri Ishwar Singh, was justified and in order? If not, to what relief is he entitled?

On receipt of order of reference, notices were issued to the parties, the parties appeared and filed their pleadings. The workman in his claim statement alleged that he was employed

with the management for the last 4/5 years on permanent basis and the management terminated his services with effect from 17th January 1977 without any show cause notice, enquiry or chargesheet. The management in their written statement alleged that the workman was employed only on daily wages for certain period as per demand in the factory. He was appointed on 13th December, 1976 on daily wages and in view of great rush in the distillery work of the factory and he was allowed to work upto 15th January, 1977 after which date his services was no longer required by the management. His continuance working on permanent job for the last 4/5 years was denied. On the basis of pleadings of the parties my learned predecessor framed the following issues on 9th November, 1977:—

- (1) Whether the workman concerned was employed on daily wages by the management concerned during the period from 13th December, 1976 to 15th January, 1977?
If yes, to what effect?

- (2) As per reference?

And fixed the case for the evidence of the management. The management in their evidence examined Shri Chander Parkash, Time-keeper of the management as MW—1 who stated on the basis of attendance register and other record brought by him in the court that the workman was for the first time appointed on daily wages on 19th January, 1974 upto 30th March, 1976. He was appointed as an unskilled worker and he produced a statement of period of appointment Exhibit M—1 prepared from the letter of appointments issued to the workman from time to time, and thumb marked by him in token of receipt of the same. He was shown to have been employed by the management on daily wages from time to time in different sections of the factory as under:—

1. The 29th January, 1974 to 30th March, 1974 Exhibit M—2
2. The 18th April, 1974 to The 31st May, 1974 Exhibit M—3
3. The 20th July, 1974 to 13th August, 1974
4. The 28th August, 1974 to 10th September, 1974
5. The 8th March, 1975 to 22nd March, 1975
6. The 5th April, 1975 to 30th April, 1975
7. The 1st May, 1975 to 15th June, 1975
8. The 3rd July, 1975 to 14th August, 1975
9. The 24th August, 1975 to 16th September, 1975
10. The 8th October, 1975 to 22nd November 1975
11. The 25th November, 1975 to 31st January, 1976 Exhibit M—4
12. The 17th February, 1976 to 17th April, 1976 Exhibit M—5
13. The 22nd April, 1976 to 11th June, 1976 Exhibit M—6
14. The 19th August, 1976 to 31st August, 1976
15. The 13th September, 1976 to 29th November, 1976 Exhibit M—7
16. The 13th December, 1976 to 15th January, 1977 1st appointment.

The witness stated that the appointment letters Exhibit M. 2 to M—7 are attested copies of original which bear thumb impression of the workman and stated that he was engaged by the management according to requirement in different sections and deposed that he was paid every fortnightly. In cross-examination he admitted that Sarvshri Om Parkash, Prem Chand, Ram Shankar and Sant Lal were also daily wagers and stated that their services were also terminated on 30th March 1974. The workman in his evidence made his own statement that he was appointed on 9th March, 1974 without being given any letter of appointment and he served the management for four long years. He denied his knowledge about putting his thumb impression on the appointment letters produced by the management. He produced a receipt Exhibit W—1 pertaining to the Provident Fund deduction receipt. In his cross-examination he admitted that his services had not been continuance. There was break in his service quite often and he admitted receiving his wages fortnightly. The parties closed their evidence and argue their case on 25th September, 1976 before my learned predecessor but my learned predecessor heard their arguments and reserved his judgement. The case remained pending and no judgement was given by my learned predecessor. Ultimately

case came up before me on 7th April, 1979, when I issued fresh notices to the parties for their arguments and Shri Karan Singh for the workman and Shri R. S. Malik for the management appeared before me on 21st May, 1979 and argued on behalf of the parties. I have heard the parties at length and gone through the record of this case and give my issue-wise findings as under :-

Issue No. 1

The management in their written statement alleged that appointment of the workman was not on a permanent post but only as a daily wages from time to time whenever there was need of extra hands to meet with the rush in the distillery work and in support of their case examined M.W. 1 and produced the statement of giving period of employment during the last 3/4 years as and when need for additional extra hands arose and produced the appointment letters, exhibit M-2 to M-7 in support of their contention that he was employed only on temporary basis and was being paid fortnightly. His last appointment was made on 13th December, 1976 for a period which lasted up to 15th January, 1977. This last appointment on daily wage basis was made after a break of 14 days unemployment. The workman has been shown to have worked in bottling, Civil Engg. work, Engg. and Store Miscellaneous work, claims and painting, rectification and warehouse sections which shows that he was employed as a daily wage workman as a extra additional hand to meet the temporary rush. The workman has drawn attention to 1961-LLJ-I-Page 649 wherein it has been laid down by the Supreme Court that a workman who is engaged on a work of permanent nature lasting throughout the year though not engaged in such work throughout the year would be a permanent workman. I have gone through this ruling carefully. In this ruling the Supreme Court has added a rider—a workman engaged on a work of permanent nature which lasts throughout the year and who has completed probation period if any not being one engaged to fill any temporary need of extra hand on permanent jobs, e. g., any leave vacancy which has been proved that the workman was a daily wage engaged from time to time, any different sections as and when need arose and his appointment was purely on temporary basis. Presumably to fill any leave vacancy and alternately as alleged by the management to meet the rush in the distillery business Ex. W-1 has been produced by the workman to show that Provident Fund was deducted from the workman. Ex. W-1 does not show any year during which the deduction was made nor it shows the management with whom the workman was employed. In his statement the workman has only contended that this slip was supplied to the workman by Shri Balwant an employee of the management. This deduction of Provident Fund does not mean that the workman was employed with the management permanently on some job of permanent nature and this deduction could be made from him while he was employed temporarily for the specified period. I, therefore, hold that the workman was employed as a daily wage temporarily and his last appointment with the management was only from 13th December, 1976 to 15th January, 1977 with no continuity about the past service. This issue is decided in favour of the management and against the workman. As a result of this issue being decided in favour of the management the workman cannot make any use of his past temporary work as a daily wage from time to time.

Issue No. 2.

On the basis of my findings in respect of issue No. 1 the workman has no cause of action and the termination of the workman is justified and in order. In these circumstances I answer this reference and give my award that the termination of the service of the workman is justified and in order and he is not entitled to any further relief.

Dated, the 10th July, 1979.

BABU RAM GOYAL,

Presiding Officer,
Labour Court, Haryana,
Rohtak.

Endst. No. 1742, dated the 20th July, 1979.

Forwarded (Four copies) to the Secretary to Government of Haryana, Labour and Employment Department, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

BABU RAM GOYAL,

Presiding Officer,
Labour Court, Haryana,
Rohtak.